



COUNCIL ORDINANCE NUMBER 20477

COUNCIL BILL NUMBER 5051

**AN ORDINANCE CONCERNING AMENDMENT OF
ANIMAL REGULATIONS REGARDING SERVICE
ANIMALS AND AMENDING SECTIONS 4.330,
4.335, 4.340, 4.395, 4.410, 4.427, 4.435 AND 4.440
OF THE EUGENE CODE, 1971.**

ADOPTED: June 27, 2011

SIGNED: June 29, 2011

PASSED: 8:0

REJECTED:

OPPOSED:

ABSENT:

**EFFECTIVE:
July 30, 2011**

ORDINANCE NO. 20477

AN ORDINANCE CONCERNING AMENDMENT OF ANIMAL REGULATIONS REGARDING SERVICE ANIMALS AND AMENDING SECTIONS 4.330, 4.335, 4.340, 4.395, 4.410, 4.427, 4.435 AND 4.440 OF THE EUGENE CODE, 1971.

THE CITY OF EUGENE DOES ORDAIN AS FOLLOWS:

Section 1. Section 4.330 of the Eugene Code, 1971, is amended by adding the definition of "Service animal" to the list of definitions in alphabetical order to provide as follows:

4.330 **Animal Control - Definitions.** For purposes of sections 4.330 to 4.500 of this chapter, the following words and phrases mean:

Service animal. Any dog that is individually trained to do work or perform tasks for the benefit of an individual with a disability, including a physical, sensory, psychiatric, intellectual, or other mental disability. Consistent with federal rules implementing the Americans with Disabilities Act, a miniature horse that has been individually trained to do work or perform tasks for the benefit of the individual with a disability may also be considered a service animal. The work or tasks performed by a service animal must be directly related to the handlers' disability. Examples of work or tasks include, but are not limited to, assisting individuals who are vision impaired with navigation and other tasks, alerting individuals who are hearing impaired to the presence of people or sounds, providing non-violent protection or rescue work, pulling a wheelchair, assisting an individual during a seizure, alerting individuals to the presence of allergens, retrieving items such as medicine or the telephone, providing physical support and assistance with balance and stability to individuals with mobility disabilities, and helping persons with psychiatric and neurological disabilities by preventing or interrupting impulsive or destructive behaviors. The crime deterrent effects of an animal's presence and the provision of emotional support, well-being, comfort, or companionship do not constitute work or tasks for the purposes of this definition.

Section 2. Section 4.335 of the Eugene Code, 1971, is amended to provide as follows:

4.335 **Animal Abuse.**

- (1)** **Animal abuse in the second degree.** A person commits the offense of animal abuse in the second degree if, except as otherwise authorized by law or as provided in subsection (2) of this section, the person causes physical injury to an animal.
- (2)** **Animal abuse in the first degree.** A person commits the offense of animal abuse in the first degree if, except as otherwise authorized by law, the person:
 - (a)** Causes physical injury to a service animal; or
 - (b)** Causes serious physical injury to an animal; or
 - (c)** Cruelly causes the death of an animal.
- (3)** Any practice of good animal husbandry is not a violation of this section.

Section 3. Subsection (1)(c) of Section 4.340 of the Eugene Code, 1971, is amended to provide as follows:

4.340 Animal Neglect.

- (1) As used in this section, "minimum care" means care sufficient to preserve the health and well-being of an animal and, except for emergencies or circumstances beyond the reasonable control of the owner, includes, but is not limited to, the following requirements:
 - (c) In the case of pet or domestic animals, access to a barn, dog house or other enclosed structure sufficient to protect the animal from wind, rain, snow or sun and which has adequate bedding to protect against cold and dampness.

Section 4. Subsection (3)(a) of Section 4.395 of the Eugene Code, 1971, is amended to provide as follows:

4.395 Licenses, Fees and Exceptions.

- (3) License Fees - Exceptions.
 - (a) No license fee shall be required for any dog owned by a person who uses the dog as a service animal. A license shall be issued for such dog upon proper proof of rabies vaccination and upon filing of an affidavit by the owner showing such dog to come within this exemption. Such affidavit shall be filed with the animal regulation authority.

Section 5. Section 4.410 of the Eugene Code, 1971, is amended to provide as follows:

- 4.410 Reporting of Biting Animals.** The owner of an animal susceptible to rabies which bites a human being or a service animal shall immediately notify the animal regulation authority or the Lane County Health Officer of such bite, the time and circumstances of such bite and the name and address of the person bitten, if known.

Section 6. Section 4.427 of the Eugene Code, 1971, is amended to provide as follows:

4.427 Dogs - Certain Areas Prohibited.

- (1) Except as provided in subsection (2) of this section, no dog owner shall permit a dog to be on Alder Street, including the sidewalks thereof, between and including the southern sidewalk of East 12th Avenue and the northern sidewalk of East 14th Avenue, nor on East 13th Avenue, including the sidewalks thereof, between and including the eastern sidewalk of Pearl Street and the eastern sidewalk of Kincaid Street.
- (2) The prohibition of subsection (1) of this section does not apply to a dog owner who maintains a lawful residence within the restricted area, to a dog assisting law enforcement personnel, to a dog assisting an individual with a disability, or to a dog inside a motorized vehicle.

Section 7. Section 4.435 of the Eugene Code, 1971, is amended to provide as follows:

4.435 Potentially Dangerous Dog.

- (1) The purpose of this section is to establish a procedure whereby dogs that pose a reasonably significant threat of causing serious injury to humans, domestic animals or livestock or property are identified and subjected to precautionary restrictions in order to prevent initial or additional injuries.
 - (a) Level 1 behavior is established if a dog at large is found to menace, chase, display threatening or aggressive behavior or otherwise threaten or endanger the safety of any domestic animal or livestock.
 - (b) Level 2 behavior is established if a dog at large is found to menace, chase, display threatening or aggressive behavior or otherwise threaten or endanger the safety of any person or service animal.
 - (c) Level 3 behavior is established if a dog, while at large, bites or causes physical injury to any domestic animal or livestock.
 - (d) Level 4 behavior is established if a dog, whether or not confined, bites or causes physical injury to any person or service animal.
 - (e) Level 5 behavior is established if:
 1. A dog, whether or not confined, causes the serious injury or death of any person or service animal; or
 2. A dog, while at large, kills any domestic animal; or
 3. A dog, while at large, kills any livestock; or
 4. A dog engages in or is found to have been trained to engage in exhibitions of fighting; or
 5. A dog that has been classified as a level 3 potentially dangerous dog repeats the behavior described in subsection 4.435(1)(c) after the owner receives notice of the level 3 behavior classification.
- (2) Notwithstanding subsection 4.435(1), the director shall have discretion to refrain from classifying a dog as potentially dangerous even if the dog has engaged in the behaviors specified in subsection 4.435(1) if the director determines that the behavior was a result of the victim abusing or tormenting the dog or other extenuating circumstances.
- (3) No dog shall be classified as potentially dangerous if the behavior in question was directed against a trespasser on the property of a business which owns a licensed watchdog, providing the owner has complied with section 4.405.
- (4) No dog shall be classified as potentially dangerous if the behavior in question was directed against a trespasser that has illegally entered any residence.
- (5) Upon application of the dog owner accompanied by the fee established by the city manager, the restrictions for a dog classified under subsection 4.435(1) shall be reviewed by the hearings official after six months for dogs classified as Level 1 or Level 2 and after one year for dogs classified as Level 3 or higher. If the dog owner can show that the behavior which caused the classification has been corrected to the satisfaction of the hearings official, then the hearings official may enter an order modifying or deleting the classification.

Section 8. Section 4.440 of the Eugene Code, 1971, is amended to provide as follows:

4.440 Identification of Potentially Dangerous Dogs; Appeals, Restrictions Pending Appeal.

- (1) The director shall have the authority to determine whether any dog has engaged in the behaviors specified in section 4.435. This determination shall be based upon an investigation that includes observation of the dog's behavior by the animal regulation authority employees or by other witnesses who personally observed the behavior, sign a written statement attesting to the observed behavior and agree to provide testimony regarding the dog's behavior, if necessary. The determination may also be based on evidence that the dog's owner was fined or the dog was classified or registered in another state, county or city because the dog engaged in the behaviors specified in section 4.435.
- (2) The director shall give the dog's owner written notice by certified mail or personal service containing a description of the dog's specific behavior, classification as a potentially dangerous dog and the additional restrictions applicable to that dog by reason of its classification. If the owner denies that the behavior in question occurred, the owner may appeal the director's decision to the hearings official within 10 days of the date the notice was received by the owner by certified mail or the owner was personally served.
- (3) The hearings official shall hold a public hearing on any appeal from the director's decision to classify a dog as potentially dangerous. The owner and any other persons having relevant evidence concerning the dog's behavior as specified in section 4.435 shall be allowed to present testimony. The hearings official shall issue an order containing the hearings official's determination, which shall be final. The hearings official's order may include requirements that the dog's owner pay restitution to the victim, that the dog undergo training, or any other requirement that the hearings official deems reasonable under the circumstances.
- (4) Once the owner has received notice of the dog's classification as a Level 1 to Level 4 potentially dangerous dog pursuant to subsection 4.440(2), the owner shall comply with the restrictions specified in the notice, within ten days, unless the owner appeals it to the hearings official. If the director's decision is upheld on appeal, the dog's owner shall be liable for the cost of the dog's impoundment.
- (5) If the director finds that a dog has engaged in Level 5 behavior, the dog shall be impounded pending completion of all appeals. If the director's decision is upheld on appeal, the dog's owner shall be liable for the cost of the dog's impoundment.

Section 9. The City Recorder, at the request of, or with the consent of the City Attorney, is authorized to administratively correct any reference errors contained herein, or in other provisions of the Eugene Code, 1971, to the provisions added, amended or repealed herein.


Passed by the City Council this

27th day of June, 2011


Deputy City Recorder

Approved by the Mayor this

29 day of June, 2011


Mayor